

Appln No. 10/618,033
Amdt date November 9, 2006
Reply to Office action of August 9, 2006

REMARKS/ARGUMENTS

Claims 1-19 remain pending in this application, with claims 20-22 withdrawn from consideration. Applicant has amended claims 1 and 18. Applicant has also amended claims 8-12 to more clearly identify the scope of those claims. In addition, Applicant has amended claims 5 and 14 solely to correct minor, inadvertent, typographical errors. The amendments find full support in the original specification, claims and drawings. No new matter is presented. Applicants submit that all of pending claims 1-19 are in condition for allowance and therefore respectfully request reconsideration and timely indication of allowance.

In the Office action dated August 9, 2006, the Examiner rejected all of pending claims 1-19 under 35 U.S.C. § 103(a) as allegedly obvious over Selmon, et al. (U.S. Patent No. 6,217,549) in view of Czernecki, et al. (U.S. Patent Publication No. 2005/0222599) and Devos, et al. (U.S. Patent No. 6,099,511). However, Applicant has amended independent claims 1 and 18 to recite that the generally rigid tube has a sharp distal end adapted to puncture tissue. Selmon fails to teach or suggest such a feature. Rather, Selmon appears to disclose an intravascular device having a vascular tissue *expansion* assembly with tissue *expansion* members. Column 14, lines 20-22. The Examiner asserts that the components illustrated in Figures 14A through 14D are akin to the sharp distal end recited in the claims. However, these components are alternative tissue expansion members for use with the Selmon intravascular device. Column 17, lines 27-28. These tissue expansion members are not designed to puncture tissue. On the contrary, they are designed to expand or spread tissue.

In addition, Selmon emphasizes the need for a vascular device for crossing an arterial occlusion without perforating the blood vessel. Column 2, line 66 to column 3 line 2, and column 3, lines 36-39. Given the teachings in Selmon that the device is used to spread or expand tissue and that it should not perforate the vessel, one of ordinary skill in the art would not have been motivated to modify the device of Selmon with a sharp distal end adapted to puncture tissue, as currently claimed. As such, one of ordinary skill in the art would not have been motivated to combine the device of Selmon with the puncturing tip disclosed in Czernecki.

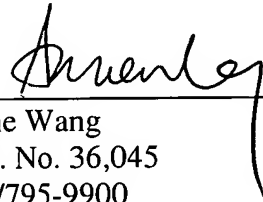
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Also, Devos fails to teach or suggest a sharp distal end adapted to puncture tissue, as currently claimed in independent claims 1 and 18. Accordingly, independent claims 1 and 18, and all claims dependent therefrom, including claims 2-17 and 19, are allowable over Selmon, Czernecki and Devos.

In light of the above amendments and remarks, applicant submits that all of pending claims 1-19 are in condition for allowance. Applicant therefore respectfully requests a timely indication of allowance. However, if there are any remaining issues that can be addressed by telephone, Applicant invites the Examiner to contact Applicant's counsel at the number indicated below.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By



Anne Wang
Reg. No. 36,045
626/795-9900

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